IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 6433 of 2006
Date of Decision: 01.12.2006

Sudha Devi ...Petitioner

Versus

Rattan Bir and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Jitender S. Chahal, Advocate, for the petitioner.

HEMANT GUPTA, J.

The plaintiff is in revision petition aggrieved against the order passed by the learned first Appellate Court, whereby the appeal of the defendants was accepted and the application claiming ad-interim injunction restraining the defendants from interfering in her possession of the land, tubewell as well as the electric connection was dismissed.

The plaintiff has sought ad-interim injunction claiming the estate of Janki Devi, her mother, by way of natural succession. It has been further found that Multan Singh, father of the plaintiff and husband of Janki Devi suffered a compromise decree on 21.6.1971 in favour of Janki Devi. By virtue of the said decree, she has become absolute owner as the said land was given to her in lieu of maintenance. Subsequently, the joint land was partitioned and possession of her share was delivered on 25.8.2002. Therefore, the plaintiff cannot seek injunction on the basis of natural succession in view of the above facts.

Learned counsel for the petitioner has vehemently argued that the Will in favour of the defendants is yet to be proved and the plaintiff being daughter of Janki Devi and as a natural heir is presumed to be in

possession of the suit property, therefore, the order passed by the learned first Appellate Court is not sustainable in law.

The learned first Appellate Court, has taken into consideration that in fact, the plaintiff is not the real daughter of Janki Devi. Rather, she is daughter of Bhano Devi, another wife of Multan Singh and the Will executed by Janki Devi in favour of the plaintiff cannot be ignored at this stage. It was further found that there is no revenue record to prove, prima-facie, the possession of the plaintiff.

The said reasoning given by the learned first Appellate Court, cannot be said to be suffering from any patent illegality or irregularity, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Hence, the present revision petition is dismissed.

01-12-2006 (HEMANT GUPTA)
ds JUDGE